

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

CRIMINAL NO. 1:07CR117

UNITED STATES OF AMERICA

VS.

ROBERT KEITH ROSS

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ORDER

THIS MATTER is before the Court on Defendant's third attempt to obtain copies of documents in order to pursue a motion under 28 U.S.C. § 2255. **Defendant's Motion to Obtain a Copy of the Laboratory Analysis Report, filed August 7, 2009.**

Defendant filed a similar request on April 8, 2009, for lab reports and other documents from his court proceeding. **Defendant's Motion to Attain Case Documents, filed April 8, 2009.** In denying that motion, the Court advised the Defendant that the record herein does not contain any discovery materials (*i.e.* lab reports) that may have been furnished to Defendant's trial counsel. **See Order, filed April 9, 2009.** Undeterred, he

filed a motion for reconsideration of that Order on April 22, 2009, which the Court denied by Order filed May 12, 2009.

Prisoners do not have an absolute and unconditional right of access to the courts in order to prosecute frivolous, malicious, abusive or vexatious motions. ***Demos v. Keating*, 33 F. App'x. 918 (10th Cir. 2002); *Tinker v. Hanks*, 255 F.3d 444, 445 (7th Cir. 2001); *In re Vincent*, 105 F.3d 943 (4th Cir. 1997).** This is Defendant's third motion for documents and the third order advising him that he is not entitled to the documents he seeks at government expense and/or some of those documents are not in the Court's record. Defendant is hereby warned that future frivolous filings will result in the imposition of a pre-filing review system. ***Vestal v. Clinton*, 106 F.3d 553 (4th Cir. 1997).** If such a system is placed in effect, pleadings presented to the Court which are not made in good faith and which do not contain substance, will be summarily dismissed as frivolous. ***Foley v. Fix*, 106 F.3d 556 (4th Cir. 1997); *In re Head*, 19 F.3d 1429 (table), 1994 WL 118464 (4th Cir. 1994).** Thereafter, if such writings persist, the pre-filing system may be modified to include an injunction from filings. **See, 28 U.S.C. §1651(a); *In re Martin-Trigona*, 737 F.2d 1254 (2d Cir. 1984).**

IT IS, THEREFORE, ORDERED that the Defendant's motion to obtain a copy of the laboratory analysis report is hereby **DENIED**.

Signed: August 11, 2009

A handwritten signature in black ink, appearing to read 'L. H. Thornburg', is written over a horizontal line.

Lacy H. Thornburg
United States District Judge

